IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

WP(C).No. 29442 of 2007(E)

PETITIONERS:
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1. P.K.ROY, S/O.KURIAKOSE, AGED 44,
POOVATHINGAL HOUSE, THEKKUMMURI,
PULIYANNOOR P.O., PIN- 686 573.

2. JOSE THOMAS, S/O.THOMAS,
AGED 40, ANTHEENATTU HOUSE, THEKKUMMURI,
PULIYANNOOR P.O.

3. THOMAS MATHAI, AGED 60,
MUDAKKALIL HOUSE, PULIYANNOOR,
PULIYANNOOR P.O.

BY ADV. SRI.SHAJI JOSEPH

RESPONDENTS:
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1. JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), KOTTAYAM- 686 002.

2. THE SECRETARY, CO-OPERATION,
SECRETARIATE, TRIVANDRUM.

3. MUTHOLY SERVICE CO-OPERATIVE BANK LTD.
NO.1631, PULIYANNOOR P.O., REPRESENTED BY ITS
SECRETARY.

4. CO-OPERATIVE REGISTRAR,
CO-OPERATIVE REGISTRAR OFFICE,
TRIVANDRUM.

R3 BY ADV. SRI.MATHEW JOHN (K)
SRI.AJEESH K.SASI
GOVERNMENT PLEADER SMT. ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/11/2007 ALONG WITH WPC NO. 33226/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO:29442/2007 E

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER ISSUED BY THE R1 VIDE NO. O.313/03 K.DIS DT. 23/4/2003.

EXT.P2. COPY OF THE REPRESENTATION WITH ACKNOWLEDGEMENT DT. 21/08/2007 BY THE PETITIONERS BEFORE THE RESPONDENTS.

RESPONDENT'S EXHIBITS

EXT.R3A. COPY OF THE AMENDMENT TO THE BYE LAW.

EXT.R3B. COPY OF THE RESOLUTION DT. 22/10/03.

EXT.R3C. COPY OF THE ADVERTISEMENT IN MANGALAM DAILY DT. 12/11/2003.

EXT.R3D. COPY OF THE -DO- IN DEEPIKA DT. 9/11/03.

EXT.R3E. COPY OF THE RESOLUTION DT. 26/11/03.

EXT.R3F. COPY OF THE PROCEEDINGS DT. 13/12/03.

EXT.R3G. COPY OF THE PROCEEDINGS OF THE GENERAL BODY DT. 30/5/04.

EXT.R3H. COPY OF THE RESOLUTION DT. 20/2/2007.

EXT.R3(I). COPY OF THE PROCEEDINGS OF THE SUB COMMITTEE DT. 22/2/2007.

EXT.R3J. COPY OF THE PROCEEDINGS OF THE SUB COMMITTEE DT. 16/7/2007.

EXT.R3K. COPY OF THE -DO- DT. 26/7/2007.

EXT.R3L. COPY OF THE -DO- DT. 3/08/07.

EXT.R3M. COPY OF THE AGREEMENT FOR SALE DT. 30/7/07.

EXT.R3N. COPY OF THE RESOLUTION DT. 7/8/07.

EXT.R3(O). COPY OF THE APPLICATION DT. 8/8/07 BY THE R3.

EXT.R3P. COPY OF THE AGREEMENT DT. 25/9/2007.

EXT.R3Q. COPY OF THE DETAILED ACCOUNT OF THE PROPOSED SAHAKARANA VISRAMAM BHAVANAM.

True copy

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THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).Nos.29442 & 33226 OF 2007

Dated this the 14th day of November, 2007

JUDGMENT

The petitioner in W.P(C).33226/07 is a co-operative bank. It has come out with a project to have an Old Age Home. It appears to have struck an agreement for purchase of land. Such agreement requires to be considered by the competent official respondents for approval of the transaction in terms of the statutory rules.

2. W.P(C).29442/07 is filed by three persons who claim that they are class I members of the aforesaid bank. On behalf of the bank, it is submitted that they are defaulters of loan amounts availed from it. The contention of those persons is that if the project of Old Age Home fructifies, the bank is likely to loose commercially and also end up in a situation where it may have to be wound up. Primarily, these are contentions which the petitioners in W.P(C).29442/07 ought to have raised, if at all, in the General Body Meeting of the bank. This is how the

democratic pattern of governance of a co-operative society is to be maintained.

3. Be that as it may, even assuming that any objection has to be raised that this matter can be considered along with the request of the bank for approval of the proposal to purchase a property.

Under such circumstances, these writ petitions are disposed of directing that Ext.P15 in W.P(C).33226/07 shall be taken up by the first respondent therein, considered and disposed of in accordance with law, after affording an opportunity to the bank as also to the petitioners in W.P(C). 29442/07, or to any of them to be heard. A final decision in this regard shall be taken within an outer limit of two weeks from the date of production of a copy of this judgment in view of the fact that the terms of the agreement between the bank and the proposed vendor is likely to end shortly.

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.